

REMARKS

The applicant respectfully requests reconsideration in view of the following remarks.

Claims 9, 11 and 13 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. 5,734,028 (Himeno) in view of JP04-164969, 1992, Abstract (Izutsu), and further in view of U.S. 5,332,404 (Himeno '404). Claims 10, 12 and 14 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Himeno, Izutsu, Himeno '404, as applied to claims 9, 11 and 13 and further in view of JP06-345989 A, machine translation (Tsumura). Claims 15 and 16 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Himeno, Izutsu, Himeno '404, and Tsumura and further in view of US 5,608,042 (Himeno'042). Claims 17 and 18 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Himeno et al., Izutsu et al., Himeno '404, Tsumura, Himeno '042, and further in view of US 5,824,118 (Akai). Claims 9, 11 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Himeno '028 in view of Izutsu and further in view of Himeno '404. Claims 10, 12, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Himeno '028, Izutsu and Himeno '404 as applied to claims 9, 11 and 13, and further in view of Tsumura. Claims 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Himeno '028, Izutsu, Himeno '404, and Tsumura, as applied to claims 9-14. Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Himeno '028, Izutsu, Himeno '404, Tsumura, and Himeno '042, as applied to claims 9-16. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Himeno '404. The applicant respectfully traverses these rejections.

Response to Interview

The applicant conducted a telephone interview on November 30, 2009. The applicant discussed the declaration. The Examiner suggested that the applicant amend the claims to

“consisting essentially of” instead of “contains”. The Examiner said that the declaration would be commensurate in scope with the amended claims. However, the applicant respectfully believes that the claims do not have to be amended and that the claims are commensurate in scope with the declaration. It is pointed out that claim 19 uses “consisting essentially of language”.

Applicant has already compared the three single dyes of the inventive mixture as they are all known dyestuffs and the mixture of dyes (2) and (3) which is disclosed in prior art as well (see Mixture A of the Declaration). The applicant has compared the following:

1) Dyestuff which is an isomer of formulae (a1) and (a2),

2) Dyestuff of the formula (b),

3) Dyestuff of the formula (c),

4) Dyestuff Mixture A comprising

75 % by weight of the dyestuff to formula (b)

25 % by weight of the Dyestuff of formula (c),

5) Dyestuff Mixture B comprising

60 % by weight of the Dyestuff (a)

10% by weight of the Dyestuff (b) and

30 % by weight of the Dyestuff (c),

6) Dyestuff Mixture C comprising

60 % by weight of the Dyestuff (a)

30% by weight of the Dyestuff (b) and

10 % by weight of the Dyestuff (c),

7) Dyestuff Mixture D comprising

30 % by weight of the Dyestuff (a)

60% by weight of the Dyestuff (b) and

10 % by weight of the Dyestuff (c),

8) Dyestuff Mixture E comprising

10 % by weight of the Dyestuff (a)

60% by weight of the Dyestuff (b) and

30 % by weight of the Dyestuff (c)

These eight examples have 3 comparisons that are according to the prior art (examples 1-3) and one not covered by the claimed invention (example 4) Mixture A. Mixtures B-E (examples 5-8) are according to the claimed invention and show the use of a mixture containing 5 different percentages of Dyestuffs a, b and c having the specific ranges

10 to 60% by weight of Dyestuff a (note that Mixtures B and C contain 60%, while Mixture D contains 30% and Mixture E contains 10% by weight of Dyestuff a),

10 to 60% by weight of Dyestuff b (note that Mixture B contain 10%, while mixture C contains 30% and mixtures D and E contains 60% by weight of Dyestuff b), and

10 to 30% by weight of Dyestuff c (note that Mixtures B and E contain 30%, while mixtures C and D contain 10% by weight of Dyestuff c),

The applicant believes that the dyestuff according to the invention are clearly commensurate in scope since the applicant has shown examples of dyestuff a at 10%, 30% and 60% by weight, shown examples of dyestuff b at 10%, 30% and 60% by weight, shown examples of dyestuff c at 10% and 30% by weight. Furthermore, the applicant established unexpected results with respect to build up properties and the Integ values (see pages 4 and 5 of the Declaration). The applicant believes that these results are commensurate in scope with the claimed invention. Again, mixtures B-E show the use of a mixture which contains:

10 to 60% by weight of Dyestuff a,

10 to 60% by weight of Dyestuff b and

10 to 30% by weight of Dyestuff c.

For the above reasons, these rejections should be withdrawn.

In view of the above amendment, applicant believes the pending application is in condition for allowance.

A one month extension fee has been paid. Applicant believes no additional fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 03-2775, under Order No. 05579-00350-US from which the undersigned is authorized to draw.

Respectfully submitted,

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